

EXCEPTION TO THE FAIR OPPORTUNITY PROCESS
FAR 16.505(b)(2)

1. **IDENTIFICATION OF THE AGENCY AND THE CONTRACTING ACTIVITY:** This is an exception to the fair opportunity process. The Naval Medical Logistics Command, acting on behalf of NH Camp Lejeune, intends to award a delivery order against Defense Logistics Agency (DLA) Troop Support Indefinite Delivery, Indefinite Quantity (IDIQ) contract SPM2D1-09-D-8348.

2. **NATURE/DESCRIPTION OF CONTRACT ACTION:** The proposed acquisition is for an infant incubator manufactured by GE Datex-Ohmeda Inc, GE Healthcare, 3030 Ohmeda Dr, Madison, WI 53718. The Government intends on awarding a Firm Fixed Price delivery order.

3. **DESCRIPTION OF REQUIRED SUPPLIES/SERVICES:** The requirement is for ten (10) infant incubators. The units shall be capable of controlling temperature to the infant. The units shall have an in-bed scale. The units shall consist of a mattress for the infant to lie on as well as a clear removable hood to protect the infant as well as provide clinician access to the infant. The units shall provide radiant heat. The power requirement is 115V, 60Hz.

4. **IDENTIFICATION OF THE JUSTIFICATION RATIONALE AND/OR DEMONSTRATION OF CONTRACTOR'S UNIQUE QUALIFICATIONS:** The statutory authority exception to the fair opportunity process is implemented by 10 U.S.C 2304(c)(1) and FAR 16.505(b)(2)(ii), only one awardee is capable of providing the supplies or services required at the level of quality required because the supplies or services ordered are unique or highly specialized. Requirement will be procured via a Defense Logistics Agency IDIQ contract as they are a required source before going open market IAW FAR 8.002(a)(1)(v).

Only GE Datex-Ohmeda can provide the necessary infant care equipment to meet the temperature regulation requirement with radiant heat. Radiant heat allows for temperature regulation that other technologies cannot provide. GE Datex-Ohmeda is the only vendor available on contract that can provide infant incubators. No other vendor on contract can provide the infant care equipment to meet this requirement.

5. **DETERMINATION OF BEST VALUE:** DLA has already determined the prices of equipment on the IDIQ as fair and reasonable. The Contracting Officer shall make a determination of best value for the Government before a delivery order is executed.

6. **DESCRIPTION OF MARKET RESEARCH:** A survey was conducted of companies available under the DLA IDIQ and only GE-Datex Ohmeda can provide infant incubators available on contract. There is no other vendor available on contract that can provide infant incubators. Draeger is the only other major vendor that can provide infant incubators that is not available via contract and cannot meet the temperature regulation requirement. Hill Rom also may be able to provide an infant incubator that is not available via DLA contract and cannot meet the temperature regulation requirement. It is likely that these systems maybe out of production or going to be out of production soon. There also a number of European vendors that do not make systems that are US compatible (electrical, human factors, etc.).

7. **ANY OTHER SUPPORTING FACTS:** None

8. **ACTIONS TAKEN TO REMOVE BARRIERS TO COMPETITION:** Future procurements will be done in accordance with FAR 16.505.

[REDACTED]

TECHNICAL AND REQUIREMENTS CERTIFICATION REQUIRED
BY DFARS 216.505-70 and FAR 8.405-6

I CERTIFY THAT THE FACTS AND REPRESENTATIONS UNDER MY COGNIZANCE WHICH ARE INCLUDED IN THIS JUSTIFICATION, WHICH FORM A BASIS FOR THIS JUSTIFICATION, ARE COMPLETE AND ACCURATE.

Technical Cognizance

[REDACTED] _____
[REDACTED] Phone Date

Requirements Cognizance

[REDACTED] _____
[REDACTED] Phone Date

CONTRACTING OFFICER CERTIFICATION

I CERTIFY THAT THIS EXCEPTION TO THE FAIR OPPORTUNITY PROCESS IS ACCURATE AND COMPLETE TO THE BEST OF MY KNOWLEDGE.

[REDACTED] _____
[REDACTED] Phone Date